

Review by P&Z: 04/18/07
Public Hearing by M&C: _____
Sponsor: Councilman Pressley
Ord. No.: 005-07

AN ORDINANCE TO AMEND APPENDIX B ("SUBDIVISION AND LAND DEVELOPMENT ORDINANCE") OF THE TOWN CODE OF THE TOWN OF SMYRNA BY AMENDING SECTION 5.07 REGARDING OPEN SPACE REQUIREMENTS

WHEREAS, the Town Council of the Town of Smyrna has appointed an *ad hoc* committee composed of the Town Manager, Town Planning Staff, the Town Engineer, the Town Solicitor and volunteers from Professional Engineering firms located in and around the Town of Smyrna to do a comprehensive review of the Town's Zoning Ordinance and Subdivision and Land Development Ordinance; and

WHEREAS, the Town Council of the Town of Smyrna desires to amend the current Open Space requirements in the Subdivision and Land Development Ordinance to improve the use of land in the Town and improve the recreational opportunities for residents of the Town of Smyrna;

BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council, duly met, that Appendix B ("Subdivision and Land Development Ordinance") of the Town Code of the Town of Smyrna, be and hereby is amended, as follows:

Section 1. Amend Appendix B ("Subdivision and Land Development Ordinance") of the Town Code of the Town of Smyrna by deleting Section 5.07 and replacing it with a new Section 5.07 as follows:

Sec. 5.07. Open Space Requirements

a. Open space shall be required in all major subdivisions and land development plans. Ownership of open space shall be transferred to a Home Owners Association or government body. Open space shall not be further developed and shall serve one (1) or more of the following functional needs:

- 1) Protection and preservation of natural resources and sensitive site features;
- 2) Provision of active and passive recreation areas;
- 3) Greenways and trail corridors;

- 4) Wildlife habitats and migration corridors;
- 5) Stormwater management;
- 6) Preservation of historic and cultural resources;
- 7) Viewshed and vista preservation, and;
- 8) Bufferyards and landscaped areas.

Additional uses permitted by the table below may be allowed when they compliment and enhance the above functional needs.

[Uses and Required Open Space Table]

b. All major residential subdivisions and land development plans shall contain open space designated as common open space. In designating common open space or landscaped surfaces as part of a subdivision or land development plan, the following criteria and standards shall be adhered to by the applicant:

1) Open space shall be separate parcels of land exclusive of streets and residential lots.

2) An existing principal dwelling unit and a maximum of one (1) existing out building, where such structures are deemed historically and/or architecturally significant by the Town, may be included within open space area.

3) Open space designated for recreation may contain parking areas and access drives accessory to the open space and other such complementary structures and improvements that are necessary and appropriate for the benefit of the residents utilizing the land for recreation purposes. Such land shall be distributed through the development to best serve the residents.

4) Where the development is in phases, the Town may require each phase to have open space. Alternatively, where a phase of development is being submitted for final subdivision or land development plan approval does not have designated open space of appropriate size or character to provide for active or passive recreation, and where it reasonably appears that the remainder of the tract will eventually be submitted for subdivision or land development plan approval in subsequent phases, the council will require the owner and/or developer to set aside an appropriate portion of the remainder of the larger tract for future use as public open space under this subsection

by written covenant in recordable form which shall bind and run with the land. In such case, council will, as a condition of any subsequent subdivision or land development plan approval for any remaining portion of the original tract, require the dedication of such and equal to the acreage accumulated and "set aside" under this subsection from prior subdivision or land development plan approvals within that tract.

5) All residential subdivisions and land development plans shall provide open space as provided in the Open Space Minimum Requirements table.

Open Space Minimum Requirements			
Zone	Description	Minimum Lot Square Footage	Minimum Percentage of Open Space
R-1	Single Lots	(11,000 s. ft.)	14% Minimum
R1-A	Single Lots	(7,700 s. ft.)	16% Minimum
R-2	Single Lots	(6,600 s. ft.)	17% Minimum
R2-A	Single Lots	(5,500 s. ft.)	20% Minimum
R-3	Single Lots	(5,500 s. ft.)	20% Minimum
R-2	Semi-Detached	(5,500 s. ft.)	22% Minimum
R2-A	Semi Detached	(3,300 s. ft.)	23% Minimum
R-3	Semi-Detached	(3,300 s. ft.)	23% Minimum
R2-A	Townhouse	(2,200 s. ft.)	25% Minimum
R-3	Townhouse	(2,200 s. ft.)	25% Minimum
R2-A	Mutli-Family		25% Minimum
R-3	Multi-Family		25% Minimum

6) All residential subdivisions and land development plans of twenty (20) units or more shall provide active recreation open space of not less than one quarter (1/4) acre plus an additional two hundred seventy-five (275) square feet per unit for every unit greater than twenty (20).

7) Active recreation open space shall be centrally located, highly visible, and unconstrained by floodway areas, critical natural areas, or wetlands. Additionally, the area shall be graded in such a manner to render it useable for active recreation purposes and shall not have slopes greater than ten (10) percent. This provision does not require active recreation open space in addition to the requirements of this provision, but provides that a portion of the required open space shall be designed in such a way to render it useable for active recreation purposes.

8) Open space shall be interconnected with open areas or greenways on abutting parcels whenever possible and may provide provisions for pedestrian pathways for general public

use, to create linked pathway systems within the Town, where appropriate.

9) Open space may be used for storm water management but storm water management areas may not be included as active open space.

10) A landscape plan/open space management plan specifying the landscaping/open space management requirements shall be required for all subdivisions and land development plans involving the creation of active recreation open space. Each plan must show with specificity a depiction of phasing, details of proposed facilities, equipment, landscaping, specifications, and designs.

c. Design Guidelines for Active Recreation.

1) Land areas shall be at least twenty (20) feet in width;

2) Active recreation areas shall be offset not less than ten (10) feet from the closest structure or lot line;

3) Selective clearing of natural vegetation may be permitted to form trails and clearings within woodland areas in accordance with the provisions of Chapter 74 of the Town Code of the Town of Smyrna;

4) Linked open spaces shall attempt to be contiguous and designed with linkages to existing and planned public walkways and with other existing or planned recreation areas.

d. Exemptions for Small Developments.

1) For all minor subdivisions, minor land development plans and re-subdivisions, a cash contribution shall be made by the owner and/or developer in lieu of other active open space requirements. This provision does not exempt owners and/or developers from any other Subdivision Ordinance requirements such as, but not limited to setback requirements.

2) For all development in the Central Residential District, a cash contribution shall be made by the owner and/or developer in lieu of other active open space requirements. This provision does not exempt owners and/or developers from any other Subdivision Ordinance requirements such as, but not limited to setback requirements.

3) Residential developments with fewer than twenty (20) units may be exempt from the one quarter acre minimum requirement for active recreation areas. A lesser amount may be recommended by the Planning Commission. A full or partial donation in lieu of the full or partial minimum active open space requirement shall be made.

e. *Improvement and completion:*

1) Prior to the transfer and dedication of any lands to the town or homeowners association under this section, any lands dedicated under this section shall be graded and seeded, and shall have installed whatever drainage may be necessary, at the owner and/or developer's expense and subject to the town's engineer and manager approval. Such land shall be completed in accordance with the following schedule:

a. Building permits will be issued to correspond with the completion of the active open space as follows:

i. Up to 25 percent of the required permits will be issued on approval of the final subdivision plans or land development plans.

ii. No additional permits will be issued until 75 percent of the active open space is completed. The owner or developer shall provide a Bond for all recreation areas, with surety acceptable to the Town, in an amount equal to 10% of the cost of the improvements which Bond shall continue for a period of one (1) year following the date of the acceptance of the improvements by the Home Owner's Association or the Town or other entity as agreed. Such Bond shall guarantee the quality and performance of those improvements against any necessary repairs or replacements that are discovered to be necessary following the acceptance thereof.

iii. At that time, up to but not to exceed 75 percent of the required number of permits will be issued.

iv. No further permits or certificates of occupancy will be issued until 100 percent of the active recreation open space is completed and approved by the town.

v. Upon such acceptance, the remaining 25 percent of the permits will be issued.

2) Whenever installation of recreational equipment is part of the improvement construction plan and final subdivision

plan or land development plan approvals, the owner and/or developer shall install the necessary equipment per the schedule noted in section 5.07.b.1. All such equipment will be listed and made a part of the subdivision or land development plan specifications and shall be Bonded as described in subsection (e)(1)(a)(ii) and (iv) of this Section.

3) Maintenance of the public open space, and the repair and replacement of equipment within these areas set aside for parks, playgrounds or recreational areas will be the responsibility of the owner and/or developer until final acceptance of the completed project by the town, at which time the areas will be dedicated to the town and the responsibility will then be assumed by the town.

f. *Cash Donations In Lieu of Land Dedication.*

1) The amount of the cash donation for full or partial cash in lieu of open space shall be determined by Appendix 1 of the Subdivision and Land Development Ordinance.

2) All cash contributions shall be deposited in a separate account maintained by the Town to be used for parks, playgrounds, or recreational purposes which will serve and act as a benefit to the future property owners of the subdivision or land development plan or the Town as a whole.

3) All cash in lieu of land dedication payments must be paid in full prior to the issuance of any building permits.

Section 2. This Ordinance shall become effective on the ____ day of _____, 2007.

SYNOPSIS

This ordinance amends the Subdivision and Land Use Ordinance of the Town Code by changing the guidelines for Open Space requirements. The ordinance creates guidelines for appropriate land to be used for open space, acceptable open space uses, minimum active recreation areas, landscaping requirements for open space, storm water management, and public open space.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna

at its regular Council meeting on _____, 2007.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in "The Smyrna/Clayton Sun Times" on _____, 2007 and posted at the Town Hall on _____, 2007.

So Certifies:

Town Clerk

This shall certify that the title, effective date and synopsis of this Ordinance was published in "The Smyrna/Clayton Sun Times" on _____, 2007 and posted at the Town Hall on _____, 2007.

So Certifies:

Town Manager